

Notice of Allowability

Application No.

10/057,173

Examiner

Kimbhinh T. Nguyen

Applicant(s)

WEBB, JAMES D.

Art Unit

2671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to communication filed 5/24/05.
2. ☒ The allowed claim(s) is/are 1-7 and 10-20.
3. ☒ The drawings filed on 18 March 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

Terminal Disclaimer

1. The terminal disclaimer filed on 05/23/05 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of Patent No. 6,644,322 has been reviewed and is accepted. The terminal disclaimer has been recorded.
2. Claims 1-7, 10-20 are pending in the application.

Reasons For Allowance

3. The following is an examiner's statement of reasons for allowance:

Claim 1, the prior art does not teach a system for displaying implantable medical device session data, comprising: translating data written in a first predetermined format that is not compatible with SGV formatted data into SGV formatted data; receiving the SGV formatted data and providing a user comprehensible representation of the SGV formatted data; wherein the formatting includes a file for storing the SGV formatted data and a customer patient charting system for receiving and displaying the SGV formatted data.

Claim 13, the prior art does not anticipate, nor does it suggest a system to manage medical session data comprising a processing circuit to convert the medical session data from an XML format to an SVG format; and a device to utilize the medical session data translated into the SVG format to generate viewable data.

Claim 18, the prior art does not anticipate, nor does it suggest a method of displaying session data in an implantable medical device system comprising converting the session data from a first format to a second format, rendering the converted session data to enable multiple display and control of the converted session data, and displaying the rendered data using the multiple display and layout control to provide a user with multiple display of a single set of session data.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimbinh T. Nguyen whose telephone number is (571) 272-7644. The examiner can normally be reached on Monday to Thursday from 7:00 AM to 4:30 PM. The examiner can also be reached on alternate Friday from 7:00 AM to 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Zimmerman, can be reached at (571) 272-7653. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

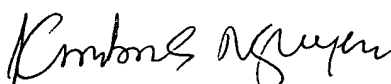
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

May 26, 2005


KIMBINH T. NGUYEN
PRIMARY EXAMINER

DETAILED ACTION

1. Applicant is advised that the Notice of Allowance mailed 05/16/05 is vacated. If the issue fee has already been paid, applicant may request a refund or request that the fee be credited to a deposit account. However, applicant may wait until the application is either found allowable or held abandoned. If allowed, upon receipt of a new Notice of Allowance, applicant may request that the previously submitted issue fee be applied. If abandoned, applicant may request refund or credit to a specified Deposit Account.
2. The indicated allowability of claims 13-17 is withdrawn in view of the newly discovered reference(s) to Webb US Patent No. 6,644,322. Rejections based on the newly cited reference(s) follow.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claim 13 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 17, and 19 of U.S. Patent No. 6,644,322. Although the conflicting claims are not identical, they are not patentably

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distinct from each other because claim 13, Webb (6,644,322) discloses a system to manage medical session data (claim 1, col. 24, lines 15-18), comprising: a processing circuit to convert the medical session data from an XML format to an SVG format; a device (IMD) to utilize the medical session data translated into the SVG format to generate viewable data (claims 3 and 4, col. 24, lines 37-45). The patent claims do not disclose a processing circuit to convert the medical session data from an XML; however, in Figs. 3 and 5, Webb uses the input/out circuit to convert the patient session information (XML converter; see Fig. 9). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply XML converter to convert patient session information from XML format into the understandable human language in a format selected from the group comprising HTML format or an SGV graphic image format, because employing an XML converter for converting patient session information from an initial format to a SVG format, it would provide a system and method for efficiently and relatively inexpensively providing a capability of translating patient session information, col. 10, lines 55-65).

Claims 14-17 depend upon claim 13 and are rejected under the same reasons of claim 13 above.

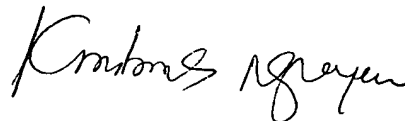
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May 23, 2005



KIMBINH T. NGUYEN
PRIMARY EXAMINER

RECEIVED
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